

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

WESLEY ELLIS-BARNES

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Criminal No. 19-190-6

**Order on Motion For Preliminary
Order of Criminal Forfeiture**

Presently before the Court is the government's Motion requesting that the Court enter a Preliminary Order of Criminal Forfeiture ECF No. 596. The government seeks forfeiture of (1) \$2,787.00 in United States Currency and (2) a Smith & Wesson M&P 40, .40 caliber pistol, serial number DFXF1300 and associated ammunition. Mr. Ellis-Barnes has filed a Response opposing the Motion to the extent that the government seeks forfeiture of the \$2,787.00 in United States Currency. ECF No. 597.

Mr. Ellis-Barnes asserts that the United States Currency is the property of his wife, Reona Ellis-Barnes. Id. at ¶ 3. He has attached as an Exhibit, a letter from the Federal Bureau of Investigation acknowledging that his wife has asserted a claim to the \$2,787.00. Ex. A., ECF No. 597-1 (Mr. Ellis-Barnes' wife is identified as Reona Hewlett in the FBI's letter). Mr. Ellis-Barnes notes that the government did not refer to this third-party claim in its Motion. Id. at ¶ 6. Mr. Ellis-Barnes correctly states as follows:

While the government can certainly seek and this Court can certainly declare that Mr. Ellis-Barnes has forfeited his rights to the subject currency, neither the government nor this Court can find that Ms. Ellis-Barnes has forfeited her right to that same currency.

Id. at ¶ 5. The government's order is limited to Mr. Ellis-Barnes' claim to the property.

While the government did not specifically refer to Ms. Ellis-Barnes' claim to the \$2,787.00, it does acknowledge, in general, all third-party claimants' rights and the procedure to protect such rights:

Upon the issuance of the Preliminary Order of forfeiture against Ellis-Barnes, the United States will provide written notice to all third parties, if any, known to the United States who may have an interest in the Subject Property. The United States will also advertise notice of this forfeiture proceeding via the government's internet forfeiture website. The Court will thereafter adjudicate any third-party interests.

ECF No. 596, at ¶ 6. The Court's Preliminary Order of Forfeiture will likewise acknowledge that any third-party claims to the property will be adjudicated by the Court. The Court notes that it can only adjudicate claims brought before the Court pursuant to applicable law. In addition, since Ms. Ellis-Barnes has notified the Department of Justice that she has asserted a claim to the \$2,787.00, presumably the government "will provide written notice" to her as a person "known to the United States" who has an interest in the \$2,787.00. Accordingly, the following Order is hereby entered.

AND NOW, this 16th day of December, 2020, upon consideration of the United States' Motion for Preliminary Order of Criminal Forfeiture against Wesley Ellis-Barnes, it is hereby ORDERED that the motion is GRANTED, and that:

1. All right, title and interest of Wesley Ellis-Barnes in the following property are forfeited to the United States for disposition in accordance with federal law pursuant to 18 U.S.C. § 924(d), 21 U.S.C. §§ 853(a)(1), 853(a)(2) and 853 (p), and 28 U.S.C. § 2461(c): a. \$2,787.00 in United States currency; and b. Smith &

Wesson M&P 40, .40 caliber pistol, bearing serial number DXF1300 and associated ammunition.

2. This Order of Forfeiture against Wesley Ellis-Barnes will be made part of the criminal judgment against him and incorporated into his sentence pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.
3. The Court will adjudicate all third-party claims.

BY THE COURT:



Marilyn J. Horan
United States District Judge